

Government of the District of Columbia

ZONING COMMISSION



Zoning Commission Order No. 266

Case No. 79-4

February 8, 1979

EMERGENCY ORDER

Whereas, on September 14, 1978, the Zoning Commission adopted Order No. 234 which changed the regulations concerning the C-3, C-4 and C-5 Districts; and

Whereas, Order No. 234 became effective on September 22, 1978 following publication in the Washington Star and the D. C. Register; and

Whereas, Order No. 234 established a requirement in Sub-section 5302.2 that residential recreation space be provided for residential uses in commercial districts as follows:

"5302.2 -- When all or a portion of a building in a C-3, C-4 or C-5 District is devoted to a residential use other than a hotel, recreation space shall be provided which is safe, secure, and suitably equipped and/or landscaped for the active or passive recreation use of the residents. Such residential recreation space shall be provided as specified below;" and

Whereas, on November 9, 1978, the Zoning Commission adopted Order No. 242 which changed the regulations concerning the C-1 and C-2 Districts; and

Whereas, Order No. 242 became effective on November 17, 1978 following publication in the Washington Star and the D. C. Register; and

Whereas, Order No. 242 amended Sub-section 5302.2 to establish a requirement for residential recreation space in C-1 and C-2 Districts; and

Whereas, the regulations as adopted by the Commission did not distinguish as to which type of residential use was required to have common recreation space, even though the discussion of the matter in the record and the intent

of the Commission was to apply the requirement only to apartment houses (buildings containing three or more units); and

Whereas, James J. Fahey, the Chief of the Zoning Regulations Division of the Department of Housing and Community Development has ruled that the requirement must be applied to all residential uses, since the Regulations do not except one or two family dwellings; and

Whereas, the Zoning Commission is in receipt of a letter from Whayne S. Quin dated January 31, 1979, on behalf of the developers of the East Capitol Street Car Barn site, which letter describe the legal and practical problems for the developer of that property, which is partially in a C-2-A District, and which letter further describes the urgent time problems of the developers in that situation; and

Whereas, it was not the intent of the Zoning Commission to apply this requirement to single-family dwellings and flats and the Commission believes that the imposition of such a requirement works a hardship on developers attempting to provide such housing in commercial districts, which would be contrary to the best interests of the District of Columbia; and

Whereas, Section 1 of the Zoning Act (Act of June 20, 1938, 52 Stat. 797, also cited as Section 5-413 of the D. C. Code) establishes the authority of the Zoning Commission "to promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia;" and

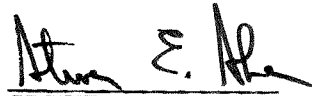
Whereas, Section 1-1505 of the District of Columbia Code authorizes the Zoning Commission to take emergency action for a period not to exceed 120 days "for the immediate preservation of the public peace, health, safety, welfare, or morals;"

Now therefore, the Zoning Commission resolves that an emergency exists and that it is necessary to take immediate action to relieve the hardship created by the application of the residential recreation space requirement to single family dwellings and flats in all commercial districts. It is therefore ordered that Sub-section 5302.2 be amended to read as follows:

5302.2 -- When all or a portion of a building in a C-1, C-2, C-3, C-4 or C-5 District is devoted to a residential use other than a single family dwelling, flat or hotel, recreation space shall be provided which is safe, secure, and suitably equipped and/or landscaped for the active or passive recreation use of the residents. Such residential recreation space shall be provided as specified below.

These amendments shall take effect immediately and shall remain in effect for no more than 120 days. At the end of that period, Sub-section 5302.2 shall revert to the language as adopted by Order No. 234.

BY ORDER OF THE DISTRICT OF COLUMBIA ZONING COMMISSION


STEVEN E. SHER
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on February 8, 1979 by a vote of 4-0 (Theodore F. Mariani, John G. Parsons, Walter B. Lewis and Ruby B. McZier to adopt, George M. White not present, not voting).